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Testimony on Assembly Bill 579
Committee on Jobs, Economy, and Small Business
February 22, 2012

Chairwoman Williams and members of the committee on Jobs, Economy, and Small Business,

Thank you for holding this hearing and for the opportunity to appear before you as author of Assembly Bill 579, legislation of great importance to my district. Businesses have consistently cited Wisconsin's costly and onerous regulatory climate as a key factor inhibiting economic growth. I began drafting this bill after touring the facilities of one of my local employers, Riverside Foods of Two Rivers, and hearing their very legitimate concerns regarding how certain regulations in the Department of Agriculture, Trade and Consumer Protection (DATCP) are being applied to their business and preventing their expansion and continued investment in Wisconsin.

Riverside is in the business of producing frozen appetizers and seafood entrees for the food service industry. Founded in Two Rivers, primarily as a fish processing company, the company has expanded greatly in recent years and serves restaurants across the Midwest, including national convenience food chains like Kentucky Fried Chicken, Long John Silvers, and A & W, with a great variety of products, many of them featuring Wisconsin cheese. Riverside Foods currently employs about 85 people at its Two Rivers facilities.

Among its many product offerings, Riverside adds coatings, seasonings, or breadings to cheese; deep fries it, then flash-freezes and packages the finished creation. As a result of being curiously classified by DATCP as a “Dairy Plant”, Riverside is held to "3-A Sanitary Standards" by DATCP and must have the production machinery that will be handling certain cheese products "certified" as meeting that criteria, adding considerably to the cost of that equipment. In the case of one product line where the company wishes to ramp up production and potentially add in excess of 50 good-paying, family-supporting jobs in the Two Rivers community, the additional cost of meeting Wisconsin's requirements would be a more than \$400,000 increase to its equipment costs (approximately \$650,000 vs. \$270,000)—almost triple the up-front cost, without any appreciable improvement in product safety. As a result, the company has had to look at possibly moving production of this particular product out-of-state, taking the related capital investment and jobs to Michigan, Illinois or Minnesota, where the standards are appreciably different.

3A Sanitary Standards are directed toward the safe handling of fluid milk. Riverside Foods does not utilize fluid milk in its production process. They purchase cheese products from licensed Dairy Plants and use the cheese products as ingredients in the products they manufacture. Riverside's classification as a Dairy Plant by DATCP is especially peculiar, because it does not technically meet the stated requirements for such a placement. As defined in ATCP 80.01(5), "Dairy plant" means any place where a dairy product is manufactured or processed for sale or distribution as human food, and includes a receiving station or transfer station. "Receiving station" means a facility which is designed for the receipt and bulk storage of milk, and which is used to receive or store milk in bulk. "Receiving station" does not include a processing plant or a facility used to distribute pasteurized milk in bottled or packaged form to consumers (ATCP 80.01(33)). "Transfer station" means a facility that is designed and used solely to transfer milk from one bulk milk tanker to another without intervening storage ATCP 80.01(40).

Riverside does not have any facilities that meet the DATCP definition of a "receiving station" or "transfer station." Riverside Foods performs a lot of value-added processing of Wisconsin cheese products. Those cheeses are produced in properly-regulated facilities, and delivered to Riverside as a finished product. Riverside does not handle milk; it is not a cheese producer.

I would like to thank the administrator of DATCP's Food Safety Division, Steve Ingham, for his continued assistance in addressing this situation and providing alternatives for language to properly remove Riverside Foods and similarly situated businesses from classification as a Dairy Plant. After soliciting additional feedback, Mr. Ingham has suggested alternate wording to avoid any unintended consequences, which I am drafting for a substitute amendment. Where the current bill inserts the phrase "intended to be consumed without first being heated," after "commodity" in statute 97.20(1)(b), the substitute would instead insert the phrase "ready-to-eat" before the word "commodity" within the same section. According to DATCP, this more narrowly targeted language would remove the battered breaded cheese sticks (which are frozen and must be heated before consumption) out from the definition of dairy product without potentially exempting plants producing grated cheese for topping pizzas. Shredded cheese that might or might not be used for topping a pizza would be considered "ready-to-eat" and would therefore still be defined as a dairy product under the new language.

Riverside Foods' breaded frozen cheese sticks, if labeled with cooking directions, would not be considered as "ready to eat" and would therefore not be defined as a dairy product under the new language, and thus not have to be processed in a dairy plant. Instead they would be processed in a food processing plant. The Food Processing Plants regulations (ATCP 70) have the following language regarding equipment: 70.06 (1) "Equipment and utensils shall be of sanitary design and construction...Equipment and utensils shall be kept clean and in good repair."

Regulations play a vital role in ensuring adequate safeguards for products and consumer protection, including food safety, but it is essential that regulations be reasonable if job creators and consumers are to have confidence in Wisconsin's regulatory system. I hope this quirk in Wisconsin's laws can be addressed quickly yet this session in order to ensure that Wisconsin-based food processors like Riverside Foods can compete and invest in new facilities and jobs in Wisconsin, rather than our neighboring states.

Thank you for your consideration and attention to this issue. I have attached to my testimony a copy of a letter from Two Rivers City Administrator Greg Buckley on behalf of the City in support of this legislation, which is backed by Connie Loden and the Economic Development Corporation of Manitowoc County as well. I'm very pleased to have Riverside Foods president and co-founder Paul Becker here for some comments and then we will be happy to take your questions. Thank you.



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February 21, 2012

Representative Mary Williams, Chair
Committee on Jobs, Economy and Small Business
Wisconsin State Assembly
State Capitol, Room 17 West
P.O. Box 8953
Madison, WI 53708

RE: AB 579

Dear Chairperson Williams and Committee Members:

The City of Two Rivers urges your support for Assembly Bill 579.

This legislation modifies the definition of "dairy product" to allow food processors who do value-added processing of milk products to be licensed as **food processing plants**, rather than **dairy plants**.

Passage of this legislation is vitally important to **capital investment and job creation plans** of Riverside Foods, a family-owned producer of high-quality frozen appetizers located in Two Rivers.

Riverside Foods has been actively exploring options to expand production of its popular lines of appetizers, featuring Wisconsin cheese as the main ingredient. In the process, the company has learned that existing State law requires that it be regulated as a "dairy plant" in order to receive cheese from Wisconsin suppliers and coat or wrap it as an appetizer product (to be warmed or deep-fried by the end user before serving).

Riverside has also learned that:

- This requirement to comply with dairy standards, as if the company were processing and distributing milk (rather than purchasing milk products and doing value-added processing prior to resale), greatly increases the cost of the machinery needed to expand its production.
- Such expansion could be accomplished at a far lower cost in Wisconsin's neighboring states, where such processors are not regulated as a dairy plants

Representative Mary Williams, Chair
Committee on Jobs, Economy and Small Business
February 21, 2012
Page 2

Fortunately, the owners of Riverside Foods are patient, and believe in Wisconsin. Moreover, they appreciate the concern and responsiveness shown by Lieutenant Governor Kleefisch, DATCP staff, and our area legislators, Representative Andre Jacque and Senator Frank Lasee, in responding to the company's needs. Riverside's expansion plans have been paused, to see if Wisconsin can provide the reasonable regulatory reform that is needed if the company is to invest in new appetizer production lines here in Two Rivers. That reform is AB 579.

Discussion of this regulatory issue has been going on since last May; it is now time for action. This business needs to move forward with capital investment decisions that will allow it to expand production in response to market demand. We want that capital investment and the resulting job creation to happen in Two Rivers, Wisconsin—not in one of our neighboring states.

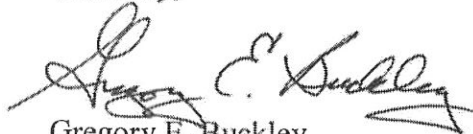
Accordingly, we urge your committee to recommend passage of AB 579, and forward it to the full Assembly for action in the current session.

In closing, this bill deserves your support because:

1. It will allow an existing Wisconsin company to expand here, in Wisconsin
2. Consumer health and safety will continue to be vigorously protected, through laws and regulations applicable to Wisconsin food processors
3. Such expansion will result in increased purchases of, and value-added processing of, our premiere food product: Wisconsin cheese.

Thank you for your consideration of this important legislation.

Sincerely,



Gregory E. Buckley
City Manager

CC: Two Rivers City Council
Representative Andre Jacque
Senator Frank Lasee
Paul Becker, Riverside Foods

SOLBERN

8 Kulick Road, Fairfield, NJ 07004-3385

Tel: (973) 227-3030 Fax: (973) 227-3069



March 25, 2011

Mr. Paul Scheffel
Riverside Foods, Inc.
2520 Wilson St.
Two Rivers, WI 54241

Dear Paul,

Per your request please find the budgetary pricing for the Solbern Model BF-1 and BF-2 built to our interpretation of the 3-A Sanitary Standards.

Please advise this is just an estimate, as we move forward on this project we will be inclined to give a formal quotation after our companies have agreed on a final design that meets your needs.

Solbern Model BF-1 (3-A)	\$550,000.00
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Solbern Model BF-2 (3-A)	\$650,000.00
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The BF-1 is capable of up to 60 pieces per minute with the use of one (1) operator, and the BF-2 is capable of up to 120 pieces per minute with the use of two (2) operators.

I trust this meets your needs, however, if you have any questions or comments please do not hesitate to contact me anytime at (973)-227-3030 or you can e-mail me steve@solbern.com.

Best Regards,

Steve Foulon
Vice President – Sales
Solbern, Inc.

Paul Becker

From: Paul Scheffel [pscheffel@riversidefoods.com]
Sent: Tuesday, February 21, 2012 1:46 PM
To: pbecker
Subject: Fw: Standard Pricing

-----Original Message-----

From: Steve - Solbern
Sent: Friday, March 25, 2011 1:20 PM
To: Paul Scheffel
Subject: Standard Pricing

Paul,

Below please find standard pricing for the equipment we have been discussing.

Please let me know if you would like this in a formal quote. Additions and or modifications will require upcharges.

Solbern Model ER-1 \$160,100.00
Solbern Model ER-2 \$270,453.00

Let me know if you have any questions or comments.

Regards,

Steve Foulon
Vice President of Sales
Solbern
(973)-227-3030 ext. 28
steve@solbern.com

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